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CONSIDERATIONS RELEVANT TO THE FORMULATION OF CONDITIONS FOR RECOGNITION OF A COMMUNIST GOVERNMENT OF CHINA

U.S.

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PRELIMINARY VERSION

OIR Report No. 5009 (PV)

July , 1949

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~~Introduction~~ FOREWORD

Within the next few months, the Chinese Communists may be expected to complete the military conquest of China proper and to establish a government that will claim to be the only lawful government of China. The present paper is not, however, concerned with the policy problem of whether or not the United States should recognize the de jure authority of the anticipated Communist government of China. This paper proceeds on the entirely arbitrary assumption that the United States Government has already decided to negotiate an agreement establishing formal diplomatic relations with Communist China. Answers are then sought to two related questions:

1. In the light of past American practice and American interests in China, what is the full range of conditions that might be attached to the recognition of the de jure authority of a Chinese Communist government?

2. What, in general terms, are the probable Chinese Communist attitudes toward the various issues involved in obtaining American recognition?

In answering the first of these questions, it might be noted, no attempt is made to evaluate the various conditions presented.

As used in the present paper, "recognition" ~~may~~ always ~~be assumed to~~ refers to de jure recognition.

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SUMMARY

In dealing with the problem of recognition in the past, the United States has tended, quite consistently, to apply certain general criteria of international responsibility, and, in addition, has frequently exacted assurances on matters of special interest to the US.

~~The most striking instance of a case in which a number of special assurances were obtained prior to recognition was the case of the USSR in 1933--34.~~

~~In the light of U.S. practice in the past and US. interests in China~~, future conditions for the recognition of a Communist government in China might ~~conceivably include be formulated~~ therefore include both a general test of international responsibility and ~~an insistence on~~ a number of special conditions. As an adequate test of international responsibility the US might request ~~of a new Chinese government would involve the obtaining of assurances~~ that the new Chinese government agreed to ~~it would~~ abide by established principles of international law and ~~either be prepared to~~ assume all existing international obligations of the Nationalist Government, ~~in the event of failure to do so, or be prepared to renegotiate treaties now in force~~. In addition, the United States might ~~also~~ exact special assurances in regard to consular conventions; non-interference in U.S. affairs; freedom of religion; freedom of informational and educational media; most-favored-nation treatment; peaceful settlement of disputes; renunciation of armed aggression; abstention from and subversive activity.

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It may be assumed that the Chinese Communists will be interested in recognition by the United States if they can secure it without seriously prejudicing to their doctrinal position at home or their future relations with the USSR. Through recognition the Communists stand to gain certain advantages, such as the opportunity to participate in international bodies of which China is now a member. However, the Communists ~~will probably refuse~~ have announced that they will refuse to accept many of the treaties and agreements now in force between the United States and the Government of China and have indicated that they will repudiate ~~all or most of~~ a large part, if not all, of the Nationalist debts to the United States. ~~However~~, If given opportunity to bargain for recognition, the Communists will probably advance a number of counter conditions of their own. They will probably insist strongly that the United States break off all relations with the present Chinese Government, refrain from favor the restoration of interference in Chinese affairs, ~~return~~ Formosa and the Pescadores to China, and agree to an early peace treaty with Japan.

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Considerations Relevant to the Formulation of Conditions for ~~Recognition~~ U.S. Recognition of a Communist Government of China ~~by the United States~~

I. POSSIBLE CONDITIONS FOR RECOGNITION

A. Precedents

Before considering the problem of recognition in reference to Communist China, it ~~might be~~ seems advisable to review very briefly certain salient aspects of recent American policy with regard to the recognition of new governments ~~with a view to discovering what prerequisites and conditions have previously been applied~~.

It will be recalled that, in dealing with new governments, the United States has tended, quite consistently, to apply certain general criteria, of which the most important have been the following:

1. Ability and willingness of governments to discharge their international obligations.
2. Adequate evidence of the internal stability of governments, as attested by:
   a. De facto control of territory and machinery of state;
   b. Ability to carry out internal obligations;
   c. General acquiescence of nationals.

Above and beyond ~~the application of~~ these general prerequisites to recognition, the United States ~~have~~ has frequently insisted upon certain special conditions, usually involving prior assurances by the government in question that it will take steps to settle outstanding issues or to follow a policy favored by the United States.

The clearest example of an instance in which the United States advanced a number of special conditions as prerequisites to recognition was the case of the USSR. American refusal to recognize the USSR ~~prior to~~ before 1933 had been based on the refusal of ~~Russia~~ the USSR to assume its international obligations and to recognize the validity of international agreements. Regular diplomatic relations were resumed in November, 1933, upon conditions set forth in ~~a series~~ an exchange of notes ~~exchanged by~~ between President Franklin Roosevelt and the Soviet Minister of Foreign Affairs, Maxim Litvinoff. ~~The most important of the conditions advanced~~ In these notes, the Government of the USSR undertook:

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of formulating, selecting, and evaluating the possible prerequisites and conditions for recognition which might be employed to the highest advantage by the United States.

The present study is an attempt to arrive at such a formulation. It is based on the assumption that the prerequisites and conditions prescribed for recognition of a Communist Government of China must be such as to fulfill three major sets of requirements:

a) they must be compatible with the spirit of U.S. policy in the past;

b) they must serve to further the general objectives of U.S. policy in the future;

c) they must be applicable to the Chinese scene, in the sense that they take into account the major objectives and interests of the Chinese Communists.

The following analysis is divided into three major areas of inquiry. The first (Part I, A) is a review of the salient aspects of recent American policy with regard to the recognition of new governments, with a view toward discovering what prerequisites and conditions have been applied in the past. The second (Part I, B) is an attempt to formulate prerequisites and conditions for recognition, from the point of view of current U.S. policy objectives. The third (Part II) is an attempt to arrive at some conception of the prevalent Communist attitudes toward the major issues involved.

SECRET

Considerations Relevant to the Formulation of Conditions for ~~Decision~~ U.S. Recognition of a Communist Government of China ~~by the United States~~

Introduction

~~With the rapid advance of~~ As the Chinese Communists advance toward military control of all of China and toward the creation of a new central government capable of claiming to represent the Chinese people as a whole, ~~a major re-adjustment of U.S. policy toward China is inevitable. In this re-adjustment,~~ the ~~problem~~ issue of the de jure recognition of a Communist government of China by the U.S. will ~~inevitably~~ eventually arise. It is therefore of current importance that some attempt be made to assess the major issues involved, with a view toward formulating those conditions and prerequisites for recognition which may be most expeditiously employed by the United States to implement its basic policy objectives.

It is assumed, at the outset, that the recognition of a Communist government of China could be used as a means of facilitating the attainment of certain major objectives of U.S. policy in China, which include the following:-

(1) the protection of the lives, property and rights of American nationals resident in China;

(2) the effective continuation of American influence in China, through such media as USIS, educational exchange programs, missionary work, scientific work, etc.

(3) the settlement of outstanding claims now existing between the Government of China and the Government of the United States.

Once it has been assumed that de jure recognition, as a means of attaining these objectives, is desirable, the problem then remaining is one

(1). ~~Assurances by the Government of the USSR that it would~~ To scrupulously adhere to a policy of non-interference in the internal affairs of the United States.

(2). ~~Assurances by the Government of the USSR~~ To refrain from -- and to restrain all persons and organizations under ~~its~~ Soviet control or receiving money from ~~it~~ The USSR from -- conducting agitation and propaganda activities within the borders of the United States or its territories or ~~from~~ violating the territorial integrity of the U.S. or its possessions.

(3). ~~Assurances by the Government of the USSR that it would not permit~~ To prevent the formation ~~of~~ or residence within ~~Russian~~ Soviet jurisdiction of any group ~~which~~ that aimed at the subverting of the government or social and political order of the United States by force.

(4) Reasonable expectations, but not guaranties, provided by the Government of the USSR that it would secure freedom of conscience and religious liberty for American nationals residing within Russian jurisdiction.

(4). (5) ~~Assurances by the Government of the USSR that it would be willing~~ To negotiate, "immediately following the establishment of relations", a consular convention ~~which~~ that would provide for most-favored-nation treatment of American nationals, with respect to the legal protection of their rights.

(5). Pending the final negotiation of claims and counter-claims, to respect the acts of the U.S. ~~Army~~ and its courts in matters pertaining to the property of the Government of the USSR and its nationals.

The Government of the USSR also agreed to waive all claims arising from the military activities of American forces in Siberia and gave assurances of freedom of conscience and religious liberty for American nationals residing within its jurisdiction. On the basis of these and other conditions and agreements, formal relations were ~~restored~~ initiated.

B. Estimate of possible conditions for ~~de jure~~ recognition.

The possible prerequisites and conditions for ~~future~~ recognition of a Communist government in China may be divided into two groups: prerequisites involving a test of international responsibility; and conditions involving assurances on points of special interest to the United States.

1. ~~Prerequisites for recognition~~ Conditions involving test of international responsibility.

Adequate evidence of the international responsibility of new governments has been a prerequisite for recognition, consistently ~~advanced~~ demanded in the past by the Government of the United States. ~~A test of the~~

I. Negotiations for an adjustment of claims outstanding between the U.S. and the USSR, including war debts of the former Czarist Government, were tentatively opened in 1934, but were never concluded.

It is interesting to note that the United States did not insist upon settlement of private claims prior to recognition, ~~as was done in the case of the Mexican Government of General Obregon, in 1923~~ in the case of the USSR, even though precedent for such procedure ~~might be found in the case of~~ was afforded by conditions for recognition of the Mexican Government of Gen. Obregon, in 1923.

Such evidence would
~~international responsibility of a Communist Government of China would~~

involve assurances of the following:

a. That the Communist Government of China will ~~be prepared to~~ abide by established principles of international law and will ~~be prepared to~~ settle outstanding issues by peaceful arbitration.

b. That the Communist Government of China will ~~be prepared to~~ assume all international obligations, both financial and non-financial, contracted by the Nationalist Government; or, ~~that~~ in the event of ~~its~~ refusal to assume all such obligations, ~~it~~ will ~~be prepared to~~ negotiate, prior to recognition, a revision of agreements and treaties now in force between the United States and China, on terms mutually agreed upon by it and the Government of the U.S.

The major international obligations ~~which~~ that the Communists would inherit from the Nationalist Government of China are ~~as follows~~ summarized briefly below. 1.

a. Non-financial obligations.

The most important non-financial obligations which a Communist Government in China would fall heir to are those contained in the Treaty of Friendship, Navigation and Commerce concluded by the US and the National Government on November 30, 1948. The principal obligations ~~which~~ that would be imposed on the Communists, ~~if~~ they should accept this treaty as valid, would include the following:

(1) Compliance with international conventions regarding the rights, privileges, exemptions, and immunities of American diplomatic and consular officials; (Art. 1).

(2) Extension of the rights of residence, travel, and trade to American nationals in China (including the right to carry on manufacturing, scientific and religious activities; (Art. 2).

(3) Protection of the rights of American nationals to acquire property and patent rights (articles 7 and 8) and to have free access to courts of justice and legal counsel (art. 6).

(4) Respect for the legal rights of corporate bodies owned and operated by American nationals; (Art. 3).

---

1. For a more complete list of treaties and agreements in force between the U.S. and China, see Appendix.

(5) Encouragement of the freedom of commerce and navigation between China and the United States, including freedom of transit for American nationals within the territorial limits of China. (Art. 25).

(6) Accordance of most-favored-nation treatment to American nationals and corporate enterprises owned and operated by them, with respect to taxation, allocation of services, and freedom of operation. (Arts. 4, 10, 16, 20, 22).

Other non-financial obligations of importance ~~which~~ that the Communists would inherit are those contained in the General Agreement on Tariffs and Trade (GATT), signed at Geneva in October 30, 1947. Under the terms of this agreement, a Communist government would undertake to grant the reductions of tariff treatment specified in the schedules of tariff concessions and to observe the rules laid down in the general provisions in its commercial relations with the United States and other signatory nations.[1]

b. Financial Obligations.

~~The outstanding~~ financial obligations of the Government of China to the Government of the United States are extensive. Since 1937 the United States has extended to China a total credit (apart from grants) of approximately US $1,051,000,000 million. ~~major~~ ~~the larger part of which is still outstanding. The major items of post-war indebtedness, based upon information available on May 24, 1949, are as follows:~~ The major credits still outstanding are listed ~~below.~~ in the table on the following page.

Typist - make sure table is on page following the one on which this sentence appears

1. ~~For a list of treaties and agreements between the United States and China, see Appendix.~~

~~The Chinese Communists have recently announced their abrogation of GATT, on a region-by-region basis.~~ abrogated

~~1. Recent reports would to the effect that the~~

1. Recent Communist policy with regard to import duties ~~have~~ has shown a tendency to ~~openly~~ disregard the provisions of GATT ~~and indicate that the Communists will refuse to~~ intend to operate independently of it.

solid title ws caps

Major U.S. Loans and Credits to China Outstanding as of March 24, 1949.

(In millions of U.S. dollars)

Item	Credit Extended	Credit Outstanding	Comment
U.S. Treasury credit of 1942	500.0	500.0	← Final settlement of terms not yet negotiated.
Military Lend-lease (pre- VJ-Day)	20.0	a	Subject to negotiation.
Civilian Lend-lease (pipeline credit)	50.3	46.8	Chinese government billed for total of $50.3 millions.
Export-Import Bank credits	65.4	53.2	Expiry date postponed until Dec. 31, 1950.
Bulk surplus property transfers	55.0	a	China contracted to make available 20 mils. for implementation of agreements and 35 mil. for payment of U.S. govt. expenses.
Office of Foreign Liquidation Commission (OFLC) Dockyard sales	4.1	a	Payment to be made over a period of 30 years, at 2 3/8 per cent.
West China surplus sales	20.0	20.0	Payment to be made over period of 30 years, at 2 3/8 per cent.
Maritime Commission sales	16.4	b	Credit extended at 3.5 per cent, to be repaid in cash over life of ships.
Military Lend-lease (post-VJ-Day)	181.0	181.0	Subject to negotiation.
Totals	912.2	a	

b. Credit outstanding as of September 30, 1948 was US $15.9 million. No later information is available.

a. Data not available.

2. Special Conditions, ~~Concessions which might be asked of the U.S.~~

In addition to the general prerequisites for recognition outlined above, the United States might also, in keeping with its traditional policy and future interests in China, advance ~~the following~~ a number of special conditions. It might exact from the Communist Government of China assurances that it will:

~~(a). Adequate assurances by the Communist Government of China that it will~~ Refrain from interference in the internal affairs of the United States and its possessions and mandates, ~~(including Japan);~~

~~(b). Assurances by the Communist Government of China that it will~~ Refrain from lending its support to groups whose aim is the overthrow by force of the Government of the U.S. or its possessions;

~~(c). Assurances by the Communist Government that it will~~ be ~~prepared, immediately following the establishment of regular diplomatic relations, to~~ negotiate a consular convention assuring legal protection of the lives, property, and rights of American nationals in China, on a most-favored-nation basis;

~~(d). Assurances by the Communist Government of China that it will not endeavor to restrict the~~ permit freedom of conscience ~~of~~ and religion of American nationals within its area of jurisdiction and ~~will~~ permit ~~them, at will,~~ to erect religious edifices and conduct religious services at will, provided that they do not ~~do so in~~ violation ~~of~~ existing laws;

7.

2. Special Conditions, ~~Concerning which might be advanced by the U.S.~~

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~~(d). assurances by the Communist Government of China that it will not endeavor to restrict the~~ Permit freedom of conscience ~~of~~ and religion of American nationals within its area of jurisdiction and ~~will~~ permit ~~them, at will,~~ American nationals to erect religious edifices and conduct religious services at will, provided that they do not ~~do so in~~ violate ~~of~~ existing laws,

(e). ~~Assurances by the Communist Government of China that it will not endeavor to restrict the freedom of~~ Permit American nationals and their agents to operate, subject to existing laws, ~~such~~ media of information such as newspapers and radio within the borders of China.

(f). ~~Assurances by the Communist Government of China that it will be prepared to~~ Permit the free exchange of students and technical personnel between China and the United States, subject to the usual provisions governing the international exchange of persons.

(g). ~~Assurances by the Communist Government of China that in the event that it is unprepared to~~ Accept the existing Treaty of Friendship, Commerce, and Navigation of November 30, 1948, ~~or it will be prepared to enter into negotiations for the con-~~ negotiate ~~clusion of~~ a new treaty of commerce and friendship with ~~the~~ similar provisions, including the according of ~~view of promoting better trade relations between the United States and China, and that in such a treaty it will be prepared to accord~~ most-favored-nation treatment to American nationals, ~~and corporations operated by them, in respect to taxation, freedom of operation, allocation of goods and services, rights of acquisition, etc.~~

(h). ~~Assurances by the Communist Government of China that, in the event of disputes arising between it or its nationals and the Government of the United States and its nationals,~~ Refer to the International Court for final decision disputes arising between the Chinese and American Governments or between either of those governments and nationals of the other, which ~~cannot be settled amicably by negotiation, it will be pre-~~ if such disputes cannot be settled amicably by direct negotiation. ~~pared to refer the matter in dispute to the International Court of the U.N. for arbitration and will be prepared to accept the decision of the Court as final;~~

(1). ~~Assurances by the Communist Government of China that it~~ will announce all armed aggression against all other nations; ~~and will~~ refrain from, and restrain its nationals from, supporting the activities of groups whose aim is the subversion of the lawful governments of other nations through force or propaganda; and, ~~that it will be prepared to give~~ as evidence of ~~its~~ good faith in this respect, by concluding treaties ~~and agreements~~ of non-aggression with neighboring states of Northeast and Southeast Asia, ~~which contain positive assurances that such is its intentions~~

II. COMMUNIST ATTITUDES TOWARD MAJOR ISSUES INVOLVED

A. General Communist Attitudes

The current ~~Communist~~ thinking of the Chinese Communists on the subject of the establishment of formal relations with the U.S. is being shaped by two conflicting forces: -- on the one hand, their own violently anti-American, anti-"imperialist" propaganda, which makes it difficult for them to admit, without appearing inconsistent, that they are seriously interested in securing ~~de jure~~ recognition from the United States; on the other hand, their interest---apparently genuine---in securing certain concrete advantages ~~which~~ that formal recognition by the United States would provide. ~~Generally speaking,~~ I It may be assumed that the Communists are interested in ~~de jure~~ recognition if they can secure it without seriously compromising their own doctrinal position at home and without prejudicing their future relations with the USSR. It would appear that their ultimate position on the question of recognition will be one arrived at through ~~some~~ reconciliation of their doctrinal position ~~(anti-imperialism and ideological ties with the USSR)~~ with their awareness, that their current material needs can best be met by establishing regular diplomatic relations with the U.S.

Recent pronouncements by Communist spokesmen would indicate a vacillation between the demands of doctrinal consistency and a growing ~~awareness of the potential value of cooperation with the U.S. in terms of economic assistance.~~ On the one hand, the Communist ~~spokesmen, are~~ leaders, while

[redacted]

4. Communist leaders, while warning that the people of a new (Communist) China must not ~~commit~~ repeat the mistakes ~~committed by~~ committed by the revolutionary governments ~~of~~ in 1911 and 1927 ~~in~~ by being over-hasty in seeking recognition from the "imperialist" countries of the West, ~~On the other hand, Communist leaders are in~~ have shown a strong and growing interest in securing large-scale economic aid from the United States and other Western nations, both in the form of trade and in the form of material and technical aid ~~of a Marshall Plan nature.~~ such as that extended under the European Recovery Program. The recent speeches of Chen Yi, Communist mayor of Shanghai, would indicate that the Communists are fully aware that, in order to industrialize, they will need a volume of economic aid far greater than that which the USSR is now able to provide. In view of this need, they have adopted the attitude that aid from the United States will be welcome provided that it is offered on the basis of absolute equality and without "imperialist" conditions attached ~~which~~ that might be injurious to Chinese national sovereignty.

Another concrete advantage ~~which~~ that the Communists may hope to gain as an indirect consequence ~~adjunct~~ of de jure recognition is eventual admission ~~would be a reasonable expectation that they will be admitted, eventually,~~ to international bodies of which China is now an accredited member, notably the U.N. (United Nations) and the Formosa Formal recognition of a Communist regime by the United States and other powers would not be in itself a guarantee of Communist admission to these bodies. It would, however, provide some reason to hope ~~a strong measure of assurance~~ that Communist delegates would be duly accredited for seats

---

1. At the present time the UN bodies ~~on~~ of which China is a member include the following: Secretariat, General Assembly, Security Council, and the Economic and Social Council, as well as a number of specialized agencies such as (ILO), [illegible] International Bank, International Monetary Fund, [illegible] International Telecommunication Union (ITU), the Universal Postal Union, the World Health Organization (WHO), and the International Refugee Organization (IRO).

In the event that a Communist Government should claim the Chinese seats in the U.N., the credentials of their delegates would normally be forwarded to the Secretary-General for his approval. Accreditation to individual U.N. organizations would require separate action by the agencies concerned. Accreditation to the General Assembly would require the approval of the Committee on Credentials of the Assembly. For accreditation to the Security Council, a report on credentials would have to be submitted by the office of the Secretary-General. Pending this report by the Secretary General's office, the Communist delegates might be allowed to take provisional seats in the Council (Rule 15).

In the event of a dispute over seats in the Security Council between a new Communist delegation and the already accredited representatives of the Nationalist Government, the Council itself would have to decide which of the two delegations should have precedence. Even though the Nationalist delegates should withdraw, it would be necessary for the Communist delegates to have their credentials approved by the Secretary-General.

2. [illegible] (See 7c under this about)

in the Security Council and other bodies in which China is now represented. The Communists will certainly desire to be represented in the Far Eastern Commission, since they would thereby gain opportunity to protest against US policy in Japan.[1] If recognized, the Communists will demand that a Council of Foreign Ministers composed of representatives of Communist China, the United States, Great Britain, and the USSR be summoned to write the peade treaty for Japan.[2]

---

1. The Communists have indicated that they recognize the legality of the F.E.C. and acknowledge the legal validity of its acts.

2. The official Communist position with regard to the Japanese peace treaty was set forth by Chu Teh, leading member of the Chinese Communist Party, as follows:

"We advocate the calling of a ~~foreign ministers' conference participated in~~ four (power) foreign ministers' conference participated in by plenipotentiaries of the Chinese people's democratic republic to prepare quickly the peace treaty with Japan...."

(FBIB Daily Report, July 8, 1949, p. BBB 3).

B. Communist attitudes toward existing international obligations of the Nationalist Government.

1. Attitudes toward non-financial obligations.

Communist ability to meet the test of international responsibility will depend largely on their future position regarding the treaties and agreements now in force between the United States and the Nationalist Government of China.

The Communists have already declared openly that they will not be bound by the treaties and agreements condluded by the Nationalist Government after January 10, 1946, since those treaties and agreements did not have the approval of all the parties participating in the Political Consulative Conference of 1946. This official declaration provides them with a useful "moral" basis for refusing in the future to honor commitments entered into by China since that date.[1] (The Sino-Soviet Treaty of Friendship and Alliance, it may be noted, was signed in August, 1945).

The Communists have gone to the extent of singling out specific treaties and agreements concluded between the Nationalist Government and the Government of the United States as being "treasonous" and therefore null and void. Those which they have denounced include the following:

a. The Treaty of Friendship, Commerce, and Navigation of November 4, 1948.

b. The General Agreement on Tariffs and Trade (GATT), Geneva, October, 1947.[2]

c. The Air Transport Agreement of December 20, 1948.

d. Agreement Relating to the Establishment of a U.S. Educational Foundation in China, November 10, 1947.

e. The Agreement Relating to the Transfer of U.S. Naval Vessels to the Chinese Government, December 8, 1947.

1. Precedent for this might be claimed in the announcement of Chiang Kai-shek that he would refuse to honor agreements made by the régime of Wang Ch'ing-wei.
2. The Communists have already abrogated GATT on a regional basis.

4. The Agreement Relating to the Presence of U.S. Armed Forces in China, August 29 - September 3, 1947.

The Communist position in regard to these treaties and agreements is that they were concluded without the concurrence of the Chinese Communist Party and of other parties participating in the PCC of 1946 and are therefore invalid, and, further, that they permitted a flagrant violation of the territorial sovereignty of China, and are therefore "treasonous".

~~With respect to this declared or "overt" position of the Communists with regard to the "treasonous" treaties, it might be well to bear in mind that~~ It might be noted, however, that the Communist protest was part of a ~~tactical~~ propaganda campaign ~~which demanded that the treaties concluded by the Nationalist Government with the United States be used as a symbol of~~ against American imperialism and ~~of~~ Kuomintang subserviency to "foreign masters." ~~In view of this fact, it is quite possible that~~ The Communists may therefore, do an about-face on the treaty question and ~~be willing to~~ "reconsider" treaties, such as the Treaty of Friendship, concrete advantages in the way of trade.[2]

One possible course of action for the Communists to follow, short of complete repudiation of existing treaty obligations, would be to accept responsibility for some or all of them at first, with the hope of then whittling down their obligations after recognition, by appealing

2. Communist aversion to the Treaty of Friendship, Commerce, and Navigation of 1948 would seem to be ~~less a matter of~~ objection to its content as such, ~~more a matter of arguing~~ that the rights guaranteed are reciprocal only on paper and that, in actuality, the United States stands much more to gain from the carrying out of the treaty provisions than does China.

for a revision of certain treaties, invoking the principle of rebus sic stantibus. Failing this, they might resort to claiming the right to revoke certain treaties unilaterally, claiming as their precedent the action of the Hankow Government in 1926.

NOW In regard ~~to a~~ future ~~revision of existing treaties or~~ negotiations ~~of new treaties~~ with the United States, ~~we may expect that~~ the Communists will almost certainly insist upon the principle of "genuine equality of rights," as opposed to what they consider the "specious" reciprocity of existing agreements, ~~and that they will be adamant in demanding that no encroachments be made upon Chinese national sovereignty~~. Their willingness to conclude future treaties containing a most-favored-nation clause will probably depend, in the last analysis, upon their evaluation of their total position with regard to vis-à-vis the USSR. If, for example, they are fearful of ~~Russian~~ Soviet encroachment in Manchuria and North China, they may wish to grant most-favored-nation treatment to the United States, in order to reduce the danger of Soviet predominance. If, on the other hand, they are firmly committed to a policy of close cooperation with the USSR, or are unable to resist the political and economic pressure of the USSR, they may be adamant in refusing to countenance a most-favored-nation clause.[1] ~~In any event, a Communist agreement to accord the United States most-favored-nation treatment would not prevent them from granting the Soviets a specially privileged economic position in China~~).

1. It should perhaps be noted, in this connection, that the Chinese Communists could conceivably accept the Treaty of Friendship, Commerce, and Navigation and still manage to accord the Soviets special privileges by referring to Article 16, Section 3, a, which stipulates that the most-favored-nation clause shall not apply in cases where "advantages are accorded to facilitate frontier traffic"....

2. Attitudes toward financial obligations.

Another important factor ~~in the consideration of the Chinese~~ Communists ~~will meet the test of their~~ international responsibility will be their ~~future~~ position with regard to the existing financial obligations of the ~~Nationalist~~ Government of China to the United States, which ~~are, as we have~~ has been noted, extensive. The official Communist position to date has been that ~~loans and credits/arrangements concluded~~ debts incurred by the ~~Nationalist~~ Government after January 10, 1946 were ~~concluded~~ incurred without the consent and concurrence of the Chinese Communist Party and other political parties in China and are therefore null and void. Since this position was publicly announced as early as February 1947, the Communists will ~~have some~~ claim "moral" justification, ~~at least in their own eyes,~~ for a wholesale repudiation of the existing financial obligations of the Government of China to the United States.

~~1. It may be of relevance here to note that~~

C. Probable Communist Attitudes toward other Major Issues ~~Involved~~

It may be assumed that the Communists, if given opportunity to negotiate for recognition on a quid pro quo basis, will come prepared to offer a number of counter conditions. ~~On some issues they will undoubtedly be adamant, and on others less so.~~ They may be expected to insist strongly that the U.S.: ~~them to be adamant in demanding the following:~~

(1). ~~immediately~~ Break off all diplomatic relations with the present Government of China immediately and withdraw all military and naval forces from China (including Formosa).

(2). ~~Refrain~~ Refrain from interference in the internal affairs of China.

(3). Agree to an early meeting of the Council of Foreign Ministers, ~~Council~~ at which the Communist government of China is represented, to draw up a peace treaty with Japan, and immediately thereafter withdraw American military forces from Japan.

(4). ~~Support~~ Support the restoration of Chinese sovereignty over Formosa and the Pescadores.

In addition ~~to the above~~, the Communists will probably ask, with less insistence, for: ~~the following conditions:~~

~~With less insistence, the following conditions:~~

1. Inasmuch as the Ryukyus, including Okinawa, are an economic liability, it is possible that the Communists might be willing to withdraw their demand in favor of some form of international trusteeship plan in which they and the USSR would share some control.

In the general statement issued at the Cairo Conference, the US., the UK, and China agreed that...."all territories Japan has stolen from the Chinese, such as Manchuria, Formosa, and the Pescadores, shall be restored to the Republic of China...."

APPENDIX

List of Major Treaties and Agreements in Force between the United States and China ~~(as of November, 1948)~~

~~I. Treaties and Agreements, Unilateral~~

II. Multilateral

Cairo Statement of November, 1943

Yalta Agreement, February 1945

Moscow Agreement, December 27, 1945

Charter of the United Nations and Statute of the International Court of Justice, San Francisco, June 26, 1945.

(In addition, China is also a party to a number of agreements involving specific UN organizations, such as UNESCO, FAO, IRO, WHO, International Monetary Fund, International Bank, ILO, etc.)

General Agreement on Tariffs and Trade (GATT), signed at Geneva, October 30, 1947

Convention on International Civil Aviation, Chicago, December 7, 1944

International Telecommunications Convention, Madrid, December 9, 1922

International Sanitary Convention for Aerial Navigation, Washington, December 15, 1944

(With protocol of April 23, 1946, prolonging the convention).

Protocol amending the agreements, conventions, and protocols on narcotic drugs, concluded at The Hague on 23 January 1922, et seq., New York, December 11, 1946.

Convention to suppress slave trade, Geneva, September 25, 1926

Agreement for the repression of trade in white women, Paris, May 18, 1904

~~I. How a more complete list may be seen in OIR Report No. 4996, Treaties and Agreements in Force between the United States and China, November 19, 1948.~~

Convention for promoting safety of life at sea, London, May 31, 1929, with amendments

Universal Postal Convention, Cairo, March 1934

Convention for the international exchange of official documents, Brussels, March 15, 1886

Convention for the formation of an international union for the publication of customs tariffs, Brussels, July 5, 1890

Arrangement relative to the repression of the circulation of obscene publications, Paris, May 4, 1910

Conventions for the pacific settlement of international disputes and the limitation of the employment of force, The Hague, October 18, 1907

Conventions regarding the rules of warfare. (The most important of these conventions were those signed at The Hague, October 18, 1907.) ~~For complete listing, see OIR Report No. 4806, Treaties and Other International Agreements, November 15, 1948.~~)

Nine-Power Treaty, February 6, 1922

II. ~~Treaties and Agreements---~~Bilateral

B. Bilateral

Treaty...Relating to the Relinquishment of Extraterritorial Rights in China and the Regulation of Related Matters, Washington, January 11, 1943.

Arbitration Treaty, Washington, June 27, 1930

Air Transport Agreement, Nanking, December 20, 1946

Parcel Post Convention, Peking, May 29, 1916

Agreement relating to the exemption from duty of the effects of diplomatic and consular officers, Washington, September - December, 1930

Agreement Relating to the Presence of United States Armed Forces in China, Nanking, August 29 - September 3, 1947

Agreement Relating to Claims Resulting from Activities of U.S. Military Forces in China, ~~Nanking, October 10, 1947, March 1948~~ effective March 17, 1948.

Agreement relating to the Establishment of the United States Educational Foundation in China (Fulbright agreement), Nanking, November 10, 1947

Agreement relating to financial aid to China, (the 500 million dollar credit), Washington, March 21, 1942

Agreements regarding Lend-lease
~~(For full listing, see GIR 4806, Treaties and International Agreements, November 19, 1948.~~

(Most important of these agreements was the Agreement relating to the Disposition of Lend-Lease Supplies, June 14, 1946, the so-called "pipe-line" agreement).

Agreement for the sale of certain surplus war property, Shanghai, August 30, 1946

Dollar credit arrangement for the purchase by China of American surplus property abroad (Dockyard agreement), Shanghai, May 15, 1946

Agreement...relating to the Transfer of U.S. Naval Vessels and Equipment to the Chinese Government, Nanking, December 8, 1947

Economic Aid agreement, Nanking, July 3, 1948

Agreement...Providing for Relief Assistance to China, Nanking, October 27, 1947

Agreement...Providing for the Establishment of a Joint Commission on Rural Reconstruction in China, Nanking, August 5, 1948

Treaty of Friendship, Navigation, and Commerce, November 30, 1948

(1). The resumption of Japanese reparations transfers. (The Communists have bitterly denounced the cancellation of interim reparations transfers from Japan, but might conceivably be persuaded to modify their objections if offered opportunity to trade with Japan on favorable terms.)

(2) The return of Japanese war criminals. (The Communists have demanded the return of some 260 Japanese to China for retrial by a Communist court.)

(3) The return of prominent Chinese "war criminals" who have fled to the United States or areas under its control.

(4) The return of Chinese public funds placed in safe-keeping in the United States by officials of the present Chinese government.

(5). Settlement of claims arising from the activities of American military forces in China.

(6) Transfer of the Ryukyu Islands to China.

With regard to the ~~first~~ six points, the Communists will probably be willing to do a considerable amount of bargaining.

SUMMARY

Despite constitutional and legal guarantees of equality, there exists in greater or lesser degree some sort of racial discrimination in the countries considered in this report. Examination of policy, attitudes, and practices with reference to this question indicates, however, that in a majority of these countries the assignment of non-segregated US troops in itself would be accepted and that no special difficulties would arise as a result of such troops living in these countries. In fewer countries, although racial discrimination is not a policy of the government nor is it practiced generally by any population group, some doubt as to a favorable reception remains because of racial difficulties experienced in the past or because of an almost total lack of contact with the Negro. In Central America as well as in the countries of northern South America the Negro has kept largely to the coastal regions. In the highlands the Spanish, Indian, and Mestizo population might not accept the Negro as readily as would the West Indian peoples, for example. But even here in most of the countries it is not believed that serious difficulties would arise provided there were a general and thorough-going policy of non-segregation by the US armed forces and no unusual behavior problems presented themselves. In Panama and to some extent in Costa Rica discrimination is generally practiced although no strict color line is drawn. Here, American Negro soldiers would run some risk of being discriminated against. In Panama the inconsistency of non-segregation in the US Army and discrimination in the Canal Zone, if continued, would be noted.

In all these countries non-discrimination on

account of race is an ideal favored by the leaders and enlightened citizens. The US is frequently criticized because of its failure to live up to this ideal. Non-segregation among US troops would, therefore, accord with the ideals of the majority of these peoples. However, because the US in large areas of this country assigns an inferior status to the Negro the stationing of any large number of Negro troops in Latin American countries might be regarded as a slight. This reaction would be avoided or minimized if the non-segregation policy were applied universally among US troops and the ratio of colored troops kept in proportion to the Negro population in the United States.

This report estimates the reaction to be expected in selected Latin American republics to the assignment of non-segregated US troops to those countries. The report deals only with the question of non-segregation and not at all with the question of what reaction should be expected from the stationing of US troops per se in these countries. National policy, as it may be inferred from official documents and statements, and attitudes and practices are examined. It is assumed that in all cases Negro troops would be a small proportion of the total of any unit or division of troops assigned and that the US military authorities would not practice discrimination in any form as between whites and Negroes.